

the dollar amount of the request or complexity of the item ordered. In most cases, the low bid meeting specifications that is selected by the Purchase and Contracts Division is routinely approved by the agency or department. This especially is the case with normal, recurring, and simple purchases, such as office supplies, paper, etc. In our sampling, the average time for this review was 11 days.

- **Eliminate the Board of Award review of all bid awards.** When the acceptable bid is selected by the agency or department, it is forwarded to the Purchase and Contracts Division for review. Once the Purchase and Contracts Division reviews the award it is forwarded to the Board of Award for final approval. Based on our sample, this review took an average of an additional eight days. In the six-month period from September 1991 through February 1992, 747 awards were reviewed by the Board of Award. Of this number only 143 awards were over \$100,000.

These two steps contribute approximately 19 days to the process time for a purchase order.

Recommendation - To reduce the length of time required to process transactions, we recommend the following actions.

- **Provide the requesting agency or department the option to decide whether Purchase and Contracts Division needs to return the bid to the using department before an award is made.** In this way, for requests that are routine in nature and for which the low bid is typically accepted, the 11 days required to circulate the bid summary between the agency and the Purchase and Contracts Division can be eliminated.
- **Raise the requirement for approval by the Board of Award to \$100,000.** During a six-month period ending in February 1992, 747 awards were processed through the Board of Award. If the approval threshold of awards requiring Board of Award approval was established at \$100,000, only 143 awards would have required Board approval. We recognize that the Board can provide meaningful input and oversight to the award process but recommend that the process only be used for material awards. Elimination of this step for lower cost awards would result in a reduction of eight days of processing time.

Finding 9 - Term contracts result in higher prices to the State.

Term contracts are negotiated by the Purchase and Contracts Division for mandatory use by all State agencies and departments, and other authorized entities.

Term contracts provide the following advantages:

- Term contracts facilitate procurements of similar commodities on a repetitive basis and can reduce administrative costs

- Term contracts establish a price for contracted commodities for a fixed period of time
- Price competition under a term contract frequently results in lower prices than could be obtained under numerous smaller procurements

Term contracts provide the following disadvantages:

- Most term contracts do not contain minimum and maximum limits, which precludes use of more beneficial methods when appropriate
- Term contracts do not provide the best price if a large specified quantity with a predetermined location is required. Under this scenario, the vendor can bid a lower price than a term contract because delivery costs can be pinpointed
- For one inexpensive item (for example, an item under \$50) administrative costs can be reduced by buying direct from a local vendor

Numerous responses to the General Assembly survey of employees contained comments expressing dissatisfaction with the requirement to buy items under State contracts when the items could be purchased at less cost and were immediately available from local vendors.

A limited review of term contracts disclosed that the office products contract provides for small purchases (below \$25) to be bought on the open market; however, other similar term contracts (e.g., staplers and hand tools) do not have a low dollar level purchase threshold. Confusion also arises when large dollar purchases are required. Although some contracts state a dollar maximum above which separate contracts can be solicited, not all contracts have this clause.

Buying small quantities of items from a term contract can be more expensive than buying from a local vendor, especially if freight and other processing costs are included. The cost to process an invoice for payment under a term contract is estimated to be approximately \$50. (This cost estimate was provided by the Purchase and Contracts Division and the University of North Carolina at Chapel Hill, and includes the staff hours to process the invoice, establish an accounts payable, and issue a check to the vendor.) In addition, delivery time for an item under a term contract can substantially exceed the time required to obtain an item from a local vendor.

Our review of the 1,200 purchase orders issued by the Department of Public Instruction for the 6-month period of July through December 1991 disclosed that about 25 percent of these purchases were for orders of \$50 or less, resulting in total processing costs of approximately \$15,000.

The University of North Carolina, Chapel Hill, has an efficient system for processing small purchases not made under term contracts. There, an abbreviated procedure is used in

processing purchases of less than \$500. Under this procedure, a single check request document is prepared that serves to authorize the purchase, document the receipt of the ordered item, show accounting code, and approve the transaction for payment. While the cost of this abbreviated processing method is unknown, it is clearly less than the cost of processing an order and payment under a term contract because an invoice or purchase requisition is not required.

At the opposite end of the spectrum, contracting separately for large purchases can result in increased price competition and lower prices than would be available under term contracts because quantities and delivery locations can be better defined.

Recommendation - Negotiate minimum and maximum limits for term contracts.
To improve the effectiveness of term contracts and the responsiveness to needs of agencies and departments, we recommend that term contracts be negotiated to allow small purchases (under \$50) to be bought off-contract and large volume purchases (exceeding some established limit) to be procured under separate contracts.

Finding 10 - The State has two contradictory policies on State agencies and departments purchasing goods and services from Correction Enterprises.

In fiscal year 1991, the Department of Correction employed 227 civilians and 1,649 prisoners in its Correction Enterprises program. The program provides manufacturing, farming, and a variety of other products and services for use in the Department of Correction and other North Carolina State agencies and departments. Fiscal year 1991 revenues from Correction Enterprises totalled \$45.6 million with net income of \$2.8 million. The Department of Correction claims that for each inmate that is rehabilitated and does not return to the prison system, the State saves \$20,000 per year in incarceration costs.

Competition with the private sector was a primary concern raised in our survey of vendors doing business with the State. (Vendor survey summary results are included in Exhibit 2-8 in Section 2.) Furniture manufacturers have questioned the legality and fairness of Correction Enterprises selling goods and services to other State agencies in several recent legislative sessions. The furniture industry believes that using inmates to manufacture furniture at below market wages is an unfair advantage. Industry also believes that products produced by Correction Enterprises should not be available for sale to other State agencies and departments. The Department of Correction's view is that State entities should purchase from other government agencies when these agencies have goods and services available at a competitive price. The department also points out the benefits from inmate training and rehabilitation.

There are two State statutes that address the sale of Correction Enterprises products and services. One is the Umpstead Act, which states "Except as provided in this section, it shall be unlawful for any unit, department, or agency of the State government, or any division, or subdivision of any unit, department or agency, or any individual employee or employees in

such a unit, department or agency in his or her or their capacity as employee or employees thereof, to engage directly or indirectly in the sale of goods, wares or merchandise in competition with citizens of the State." However, the Act provides a waiver for the Department of Correction for laundry and license plates. The vendor community, especially the furniture manufacturers, feels that Correction Enterprises violates this Act by selling to State agencies and departments.

The General Statutes, however, encourage State agencies to purchase from Correction Enterprises whenever possible. General Statute 148-70 states, "All departments, institutions and agencies of this State, which are supported in whole or in part by the State, shall give preference to the Department of Correction products in purchasing articles and commodities which these departments, institutions and agencies require and which are manufactured within the State Prison system." The statutes further state, ". . .respecting contracting for the State government or any of its departments shall not apply to articles available from the Department of Correction. . ."

These two statutes contradict each other. Because of this contradiction, other State agencies are unsure if it is legal to use Correction Enterprises in purchasing goods and services. In some instances, this results in increased commodity costs to the State because Correction Enterprises can offer the goods or service at the lowest price. A further source of confusion is the lack of a clear policy on the rules for purchasing from Correction Enterprises. In interviews with various members of the Purchase and Contracts Division and agency purchasing officers, we were unable to obtain a clear understanding of State policy addressing the subject.

Agency purchasing officers are also unclear about purchasing goods and services from the Department of Correction when there are mandatory term contracts that cover the same commodities. Since the State administrative code stipulates that goods and services provided by Correction Enterprises are not subject to competitive bidding, if the Correction Enterprises price for a commodity is lower than the term contract price, agency and department purchasing personnel believe they should be able to buy the Correction Enterprises product. Because of a lack of management information on purchasing activities, we were unable to determine the volume of State purchases from commercial vendors of commodities similar to those produced by Correction Enterprises.

Recommendation - To clarify the State policies on purchases from Correction Enterprises, we recommend the following.

- **Development of a policy that addresses the appropriate size, capacity, and potential benefits to prisoner rehabilitation concerning the manufacture of goods and provision of services by Correction Enterprises. Currently no policy exists.**

- **The Purchase and Contracts Division should develop a policy that clearly specifies when State agencies and departments should purchase from Correction Enterprises.** The Purchase and Contracts Division, in conjunction with Correction Enterprises, should develop a clear and concise policy that states that State agencies should purchase from Correction Enterprises when it offers lower prices for quality products than other vendors. When approved, this policy should be distributed to all State agencies and departments.

Finding 11 - Staff resources used to develop product standards should be redirected to more productive use.

Our review of the function and activities of the Standards and Inspection Section raised several issues concerning the effective utilization of the standards engineering staff.

Current Standards and Inspection Section responsibilities. The Purchase and Contracts Division includes a Standards and Inspection Section. This section has a total staff of seven, including four purchasing standards engineers, two inspection specialists, and a chief standards engineer.

The standards engineers develop standards and specifications, conduct tests, and evaluate materials in assigned commodity areas. As of January 1992, the State had developed specifications for a total of about 135 commodities. These commodities range from heavy construction equipment, such as cranes, road graders, and crawler tractors, to incidental items such as toilet soap, grand pianos, and spark plugs. In addition, the State had developed a list of 21 qualified products based on an evaluation of the items' quality. Examples of qualified products include paint brushes, computer furniture, and paper fastening staplers. The inspection specialists conduct acceptance inspections, as required, of commodities purchased under State contracts.

Development of standards - The State of North Carolina purchases over 130,000 commodities; standards have been developed for only about 135 commodities.

Prior to the 1980s, a State Standardization Committee provided for the establishment of voluntary advisory committees to assist in the development of specifications. These advisory committees were to be established when there were indications of procurement problems, such as user complaints, lack of competitive bids, complaints of restrictive specifications, and absence of adequate criteria to evaluate competitive proposals. Although the Standardization Committee was abolished, the role of the voluntary advisory committees still appears to be in place.

Efforts not properly prioritized. Our review indicated that there currently is no systematic process for the allocation of the efforts of standards engineers to areas of greatest need for development of standards. For example, the Purchase and Contracts Division had issued a term contract for microcomputers based on brand name specifications. (The

purchase of microcomputers ranks among the top five commodities, in terms of expenditures, by the State.) As a result, the term contract was awarded to several major brand name vendors, despite user agencies' insistence that there were comparable microcomputers available at significantly lower prices. Because of price volatility, it was considered administratively impractical to keep the existing term contract up-to-date with changing prices and product features. As a result, the microcomputer term contract was terminated, effective April 1, 1992. In our opinion, this is an example of a clear need for development of product specifications; however, the Standards and Inspection Section had not developed a standard for microcomputers.

Use of existing standards is not maximized - In our review of the activities of the Standards and Inspection Section, we found no indication that systematic consideration was given to adopting commodity specifications that had been developed by other governmental entities, such as other states or the federal government. Consideration of the use of these other entities' standards would, in our opinion, provide the following benefits:

- Expand the number of commodities covered by standards
- Make the limited resources of the standards engineers in the Standards and Inspection Section available to develop and maintain standards with higher potential impact than some of the existing standards, such as electric circulating fans and automobile washing concentrate.

Vendor influence over product specifications - In the course of our review at State departments and agencies, procurement staff mentioned on numerous occasions their concern that requisitions would be received from units in the field that reflected specifications biased toward a single manufacturer's product. The procurement staff expressed the view that this was occurring as a result of manufacturer or dealer sales personnel demonstrating their products to field personnel who then used that manufacturer- or dealer-supplied information to prepare the specifications listed in the requisition. Unless the departmental procurement staff or the Purchase and Contracts staff had sufficient expertise to recognize that the specifications favored a specific manufacturer's product, it was likely that restrictive specifications would be used in the invitation for bids.

In our opinion, more effective use could be made of the standards engineering staff currently involved in the development of standards and qualified products if redirected to identifying instances of such restrictive specifications.

Recommendations - To improve the effectiveness of the standards engineers, we recommend the following:

- Establish a program for the prioritization of commodities needing development of specification standards that maximizes the benefits of standardization. Currently, specification standards are clearly needed for

microcomputers to preclude the purchase of brand name computers when other less expensive brands can meet the specifications. Another example of a commodity that requires further development of specifications is **telecommunications**. The program should include studying the existing needs of the end users, the current volume of purchases, and a prioritization developed based on these findings.

- **Evaluate the adoption of standards that have been already developed** by other entities, such as other states and the federal government. This would enable the State to expand the number of commodities covered by specification standards, with minimal expenditure of limited resources.
- **Evaluate the need to reassign standards engineers** to the Purchase and Contracts Division buyer teams. Currently, the buyers in departments, agencies, and the Purchase and Contracts Division cannot be expected to have the technical expertise to recognize if requisitions received from field units contain restrictive specifications limiting effective competition. We believe inclusion of the standards engineers in Purchase and Contracts buyer teams could assist in ensuring that nonrestrictive contract specifications were being used.

Finding 12 - The Purchase and Contracts Division is not provided clear authority to perform oversight reviews of purchase activities of State agencies and departments to ensure adherence to procurement policies and procedures.

The Purchase and Contracts Division of the Department of Administration has overall responsibility for administering the State program for the acquisition and management of property. Under State statutes, the Department of Administration has the authority to delegate purchase authority to State departments and agencies.

As of July 1, 1990, the Purchase and Contracts Division has delegated authority to departments and agencies to purchase personal property up to \$10,000. This was an increase from the prior authorization of \$5,000. Effective July 1, 1991, the Board of Governors of The University of North Carolina was given authority to increase the delegated purchase authority for specific campuses to \$25,000.

Purchases of property in excess of these delegated authorities remain with the Purchase and Contracts Division. Also, the Purchase and Contracts Division issues statewide term contracts that are available for use by all State departments and agencies.

Procurement of personal services is generally classified as follows:

- **Consultant Service Contracts** - work or tasks performed by contractors possessing specialized knowledge, experience, expertise, and professional qualifications. The consultant investigates assigned problems or projects and is expected to provide counsel,

review, analysis, or advice in formulating or implementing improvements in programs or services. These contracts are considered to be independent contractors, and, as shown in Exhibit 2-5 in Section 2, are subject to extensive review prior to solicitation of proposals and prior to contract award.

- **Service Contracts** - work or tasks performed by contractors possessing specialized knowledge, experience, expertise, or similar capabilities. The services are not primarily to provide counsel, review, analysis, or advice in formulating or implementing improvements in programs or services. Examples of service contracts would be maintenance of buildings or equipment, employee training, and food service. Exhibits 2-3 and 2-4 in Section 2 show the administrative review and approval process for service contracts.
- **Personal Service Contracts** - basically the same as service contracts described above; however, the service is provided by an individual professional on a temporary or occasional basis. Examples would be contracts with doctors, attorneys, architects, and professional engineers. Authority for departments and agencies to contract for personal service contracts has been delegated to State agencies and departments. Exhibit 2-6 in Section 2 shows the administrative review and approval process for personal service contracts.

Our review of the activities of the Purchase and Contracts Division disclosed that the division has not performed periodic oversight reviews of the purchasing activities of the departments and agencies under its delegated authority. Reviews of State agency procurements are typically performed by the State Audit Department. This results in identifying irregularities well after the fact and after significant damage has been done. Purchase and Contracts Division has only limited information on the purchase activity of departments and agencies under statewide term contracts. Information received from these organizations is provided in varying levels of detail, which limits its use for statistical purposes. Departments and agencies also periodically respond to questionnaires distributed by the State Controller's Office as a self-assessment of the adequacy of internal control procedures over the purchasing function.

Our review of the activities of the Purchase and Contracts Division indicated that the division does not have a program for the periodic review of State departments and agencies to determine their compliance with their delegated authority. Therefore, Purchase and Contracts did not have information on whether departments and agencies were properly administering their purchases. For example, the 1985 Governor's Efficiency Study Commission report pointed out that important differences exist in the approach to purchasing goods and services in each of the universities in the North Carolina university system. The Commission's study report recommended that the Purchase and Contracts Division should conduct operational audits at each institution. The report estimated potential cost reductions at about \$1.5 million annually as a result of these audits.

Examples of purchasing activities by departments and agencies that we believe should be subject to oversight review by the Purchase and Contracts Division are:

- **Compliance with delegated authority** - Purchase and Contracts would not be aware if departments or agencies were purchasing items on the open market that should have been purchased under existing term contracts or splitting purchases to remain within their delegated authority. For example, in our limited review of purchasing activity by selected agencies, we noted that three separate purchase orders, totaling over \$23,000, for purchase of computer hardware from the same vendor, were processed on the same day. Had this purchase been handled as one transaction, it would have exceeded the agency's delegated authority of \$10,000 and required processing through the Purchase and Contracts Division. The recent disclosures of purchasing irregularities identified in the audit of the Department of Correction include several examples of splitting of purchase orders and other instances of non-compliance with purchase policies and procedures.
- **Sound business practices** - As described in Section 2, the Purchase and Contracts Division needs a management information system that provides the division with purchase activity of departments and agencies to ensure that agencies report procurement information. Examples of information that should be disclosed by a management information system would include instances when large purchases are being made under term contracts, which should have been handled as a separate contract, or when sufficiently large recurring purchases of items occur to warrant issuance of a statewide term contract.

In the absence of an existing management information system, the need for Purchase and Contracts Division reviews of department and agency purchase practices is even more essential.

- **Proper classification of contracts** - Currently, the Purchase and Contracts Division does not monitor personal service contracts to ensure that the contracts are being properly handled and classified by agencies and departments. For example, agencies have complete discretion on issuing personal service contracts, whereas consultant contracts require extensive review and approval.

Our review of personal service contracts by selected agencies disclosed that during a fiscal year, one agency had issued over 900 personal service contracts but had issued only one consultant contract.

During the past year, the Internal Revenue Service (IRS) performed a review of the State's personal service contracts to determine if personal service contracts were being used, when, in fact, the services being performed by the contractor were in the form of an employer-employee relationship. As a result of that review, the IRS proposed an assessment against the State of over \$1.1 million. Since the IRS review was for the tax years 1989 and 1990,

the proposed assessment does not include penalties and interest under terms of a safe harbor agreement between the State and the IRS for years 1990 and earlier. After extensive review and adjudication of the IRS assessment by the State, the final amount assessed by the IRS was still over \$430,000.

Our review of the statutes and administrative regulations pertaining to the delegation of authority from the Department of Administration's Purchase and Contracts Division does not provide an explicit charge of responsibility for the division to perform oversight reviews of department and agency purchasing activities. In our opinion, however, there is an implicit responsibility for the delegating organization to ensure that their delegation of purchasing authority has been properly administered by the departments and agencies that have received that authority. In view of the recent increase of delegated authority from \$5,000 to \$10,000, plus the increase to \$25,000 for selected universities, the need for management oversight by the Purchase and Contracts Division becomes even more important.

Recommendations - Improve the oversight of State procurement practices. To achieve this goal, we recommend the following:

- **The Department of Administration should provide a clear mandate to the Purchase and Contracts Division** to perform oversight reviews of procurement practices of departments and agencies. The current statutes and administrative code give the Secretary of Administration broad authority for administering the State's program for acquisition of personal property and services. We recommend that the procurement policies and procedures promulgated by the Secretary clearly mandate responsibility to the Division of Purchase and Contracts for performance of oversight of departments and agencies to ensure that sound business practices are being followed and for compliance with policies and procedures.
- **The Purchase and Contracts Division should establish a program for oversight reviews of departments and agencies** to ensure compliance with policies and procedures, and to identify opportunities for improvements in procurement practices. In the absence of a management information system, the need for these oversight reviews to be performed on a scheduled and recurring basis is especially important. These reviews should result in strengthening the State's overall procurement activities. The program should include analysis of departmental procurement activity to:
 - Determine instances where term contracts should be used
 - Establish separate contracts for departments ordering large quantities of a specific commodity

- Review for "back door" selling that involves the sales person contacting the agency directly and a sale occurring outside the authorized process
- Determine cases of bid splitting
- Review for and correct cases where personal service contracts were used when consulting contracts were required
- Determine cases where employee/employer situations exist and are not identified

Finding 13 - Purchasing procedures are out of date and incomplete.

The latest version of the State Purchasing Manual was issued in April 1981, and is not in a format that facilitates updating of sections to keep the data current. Pages are not dated, nor is an index included that would enable a user of the manual to determine if the manual is up-to-date. The manual also has several shortcomings in coverage of purchasing subjects, such as the following:

- Outdated delegations of purchase authority
- Variances in informal purchasing procedures used by departments and agencies
- Need for a buyers' code of ethics
- Need for policies and procedures for handling of bid protests

The Purchasing Manual does not contain current information on the status of delegations of purchase authority to State departments and agencies. The 1981 revision of the Purchasing Manual contains the provision that purchases under \$2,500 can be handled by informal procedures through use of written or verbal quotations. These small purchases do not require public advertising nor public opening of bids received. At the time the revised manual was issued, this \$2,500 informal procurement limit was also the amount of the delegated authority to departments and agencies to purchase equipment, materials, and supplies, not covered by term contracts. The delegation included the requirement that good purchasing practices be followed, including obtaining reasonable and adequate competition, where available, with quotations made a matter of record.

Subsequent to issuance of the 1981 revision of the Purchasing Manual, the dollar limit for informal purchases and delegation of authority to departments was increased to \$5,000, effective January 1, 1985, and was increased again to \$10,000, effective July 1, 1990. The Purchasing Manual does not incorporate these increases in delegations of authority.

For the Purchasing Manual to be a useful guide for purchasing agents throughout the State, it must be kept up-to-date and reflect current policies and procedures.

Variances in informal purchasing procedures used by departments and agencies

The State Purchasing Manual states that the Purchase and Contracts Division will develop forms and conditions for use by delegated departments and agencies in obtaining competitive offers. Our review disclosed that the Purchase and Contracts Division had not issued guidance to departments and agencies on procedures to be used in purchasing under their delegated authority. For example, our review shows that the dollar threshold for telephone quotes versus written quotes varied from \$500 at the Department of Environment, Health, and Natural Resources, to \$2,500 at the Department of Public Instruction.

In our opinion, in the absence of compelling reasons for a department or agency to have unique purchase procedures, it is important for State departments and agencies to follow the same practices. It is less confusing to prospective vendors that deal with various State departments and agencies, and a consistent set of procedures provides the Purchase and Contracts Division with assurance that sound procurement practices are being followed. Consistent practices also would facilitate Purchase and Contracts' collection of statistical information and performance of oversight reviews of department and agency compliance.

Need for a buyers' code of ethics

The Purchasing Manual does not include a section setting forth a code of conduct or ethics for buyers in the Purchase and Contracts Division, or for buyers in departments and agencies who are purchasing goods and services under their delegated authority.

The State statutes contain provisions that the Secretary of Administration, any assistant of the Secretary, or any member of the Advisory Budget Commission shall not have any direct or indirect financial or personal beneficial interest in (a) the purchase or contract for any materials, equipment, or supplies, (b) any firm, corporation, partnership, or association furnishing any materials, equipment, or supplies to the State government. Also, the Secretary of Administration, any assistant of the Secretary, or any member of the Advisory Budget Commission shall not accept or receive, directly or indirectly, from any person, firm or corporation, a rebate, gift, money, or anything of value, or promise, obligation or contract for future reward or compensation. This statutory provision is not cited in the State Purchasing Manual.

As shown in our benchmark analysis in Appendix A, generally accepted procurement practices state that a code of ethics or standard of conduct be published governing the performance of employees associated with government contracts. The code of ethics or standard of conduct should provide for sanctions, penalties, and disciplinary actions for violation of such standards. These generally accepted procurement standards also

recommend a written policy covering association and relationship of government employees with vendors and potential vendors.

In our opinion, it is essential that the Purchasing Manual include a clear statement of the State's code of ethics or standard of conduct for the information of all State employees involved in purchasing activities on behalf of the State.

Need for policies and procedures for handling of bid protests

The State Purchasing Manual does not contain information on the procedures for handling and resolving protests that may be submitted by prospective vendors. Protest procedures are intended to establish due process to be followed by bid protesters and by the government, including items such as timeliness of filing a protest, who is able to file a protest, who is responsible for evaluating the merits of the protest, a time period for resolving the protest, and further appeal rights available to the protester.

The State administrative code pertaining to purchase and contract activities makes a general statement that parties to contested cases shall negotiate their complaint with the State Purchasing Officer, who is to issue a decision within 30 days. This step is required before requesting an administrative hearing. A separate section of the State administrative procedures covers the detailed requirements for handling bid protests. This material is not incorporated in the Purchasing Manual, nor is it made available as part of the bid information package that is provided to prospective bidders.

In our opinion, the Purchasing Manual should contain guidance to purchasing staff on the procedures for handling bid protests. We also believe that the invitation for bid packages should advise prospective bidders of their right to protest bids and due process for handling bid protests. The response to our questionnaire to vendors indicated a lack of awareness of the State's bid protest procedures.

Recommendations - To improve the utility of the State Purchasing Manual for procurement staff in the Division of Purchase and Contracts and purchasing staff in departments and agencies, we recommend the following:

- **Update the State Purchasing Manual** to reflect current statutory and administrative requirements.
- **Provide guidance on informal purchasing policies to agencies** that are carrying out purchase activity under their delegated authority. These procedures should include guidance such as dollar thresholds on oral and written quotes, the number of quotes required, and documentation requirements.
- **Develop a buyers' code of ethics** to be incorporated into the Purchasing Manual that will put the buyers in the Purchase and Contracts Division and the

buyers in other departments and agencies on notice of the conduct expected of State employees and prospective vendors.

- **Establish policies and procedures for handling of bid protests** that will inform bidders of their right to protest, due process in processing protests, and their right of appeal of the administrative review of the protest. We further recommend that the protest procedures be included in the invitation for bid package that is distributed to prospective vendors.

Finding 14 - State agencies lack useful information on available surplus property and incentives are lacking for agencies to report surplus property.

State and federal surplus property is available to State agencies and departments at a lower cost than purchasing similar new items from commercial sources. When the Federal Surplus Property Section sells property, it is sold at the cost to carry the item in inventory. At the State Surplus Property Section, inventory is sold at a price based on information provided by the agency reporting the asset as surplus or at a fair-market-value price based on the "best guess" of the State Surplus Property Section.

Based on our review of the surplus operation, there are two primary impediments to a State agency's effective use of surplus property:

- Lack of easy access to useful information on the availability and condition of surplus property
- An ineffective reimbursement policy on the proceeds from sale of surplus property that discourages agencies from reporting surplus property

The impact of these two disincentives is that the availability of surplus property for use by other agencies is not effective and that cost savings through the use of surplus property by other agencies is not realized.

Lack of easy access to useful information

Information on surplus property available through the Federal Surplus Property Section and State Surplus Property Section is provided in periodic newsletters and by informal telephone contact only. There is no central automated information system provided to users at the departmental level to easily determine what surplus property is available. The current asset management system cannot be used for user access because surplus property is not maintained on the system. As a result, when agencies and departments identify a need for items, they cannot easily access current and complete information on available surplus property that will meet their needs.

An ineffective reimbursement program discourages agencies from reporting surplus property

When an agency or department identifies surplus property and sends the property to the State Surplus Property Section, a price is established and the commodity is then available for sale. Once sold, the sales proceeds are credited to the general fund of the department rather than to the agency that reported the property as surplus. Therefore, under the current system, there is no direct benefit to the agency turning in the surplus property. In fact, there is an incentive for the agency to retain the surplus asset and use it as a trade-in, even at below-fair-market value.

Recommendation - To enhance the use of surplus property by State agencies and departments, we recommend:

- **The surplus property sections develop an on-line inventory management system** to facilitate agency and department access to information on surplus property. A combined State and federal surplus inventory management information system should be maintained on a network accessible from all State agencies and local governments to facilitate the flow and re-use of surplus property. The information system should provide details on:

- Available surplus property inventory
- Age and fair-market-value price of the inventory
- Physical condition of items and the dates they were reported as surplus

By maintaining the surplus property information on a network, State agencies would be able to easily access the system and identify usable surplus, and the manager of surplus property would be able to update information on a regular basis.

- **State agencies should be provided direct reimbursement for proceeds from sale of surplus property.** We recommend that the policy regarding State surplus sales proceeds be changed. However, a few of the State agencies do receive reimbursement directly. For instance, the Motor Fleet Management Division is one division that currently receives reimbursement directly. The policy should provide that all agencies reporting the surplus asset to the State Surplus Property Section will receive the proceeds from the sale of surplus directly and can use it for purchases of additional fixed assets. In this way, State agencies would have more incentive to report surplus assets for resale to other agencies rather than using them for trade-ins.

Finding 15 - The State lacks a well-targeted program for meeting its contracting goals with minority-owned, women-owned, and disabled-owned businesses.

Several different minority goals are established by the State of North Carolina through executive orders and mandated through the General Assembly. These are not requirements but goals for agencies to achieve in an effort to promote minority-owned, women-owned, and disabled-owned business participation with the State government. According to Executive Order 77, it is policy to "promote economic opportunities for all citizens without regard to race, gender or handicap." The order states that administration shall be the responsibility of the Purchase and Contracts Division. Currently, there are two established goals:

- **Overall administrative goal** - A minority participation goal was established through Executive Order 77 for procurements processed through the Division of Purchase and Contracts. Executive Order 77 states the objective to be "for businesses owned and controlled by minorities, women, and handicapped persons, to receive a minimum of 4 percent by amount of the State's purchases of goods and services under the Purchase and Contracts component." According to the report issued by the Purchase and Contracts Division for fiscal year 1991, the goal was met and exceeded.
- **Department of State Transportation goal** - House Bill 399 ("The Highway Trust Fund") ratified by the General Assembly in 1989 established a 10 percent minority business participation goal. Senate Bill 1426 modified the bill to include a 5 percent participation goal for women-owned businesses. Currently, the Department of State Transportation reported 5 percent minority participation for the period July 1990 to February 1992, and 3 percent women-owned participation goal for the same period. In each instance, the Department of State Transportation did not meet its program goals.

To facilitate the procurement of goods and services from minority businesses, many states have a contact point within the State government to facilitate the process. This contact point holds seminars and outreach programs to facilitate business with the minority community. In North Carolina, Auxiliary Service within the Purchase and Contract Division who certify minority vendors. But the Purchase and Contracts Division does not currently sponsor outreach programs specifically targeted to encourage minority business participation. As a result, goals of minority participation have not been completely achieved.

Recommendation: The State should have a more aggressive program on contracting with minority-owned, women-owned, and disabled-owned business firms to meet its legislatively and executively mandated program goals. We recommend that the Purchase and Contracts Division, in conjunction with the Department of State Transportation, consider a more active approach in contracting to minority-owned, women-owned, and disabled-owned businesses. This can be accomplished in two ways:

- **Publicize its central contact point for minority business** - The State should delegate the role of central contact point for minority business to a current Purchase and Contracts Division employee. This would include specific outreach to the Small Business Administration and the Minority Business Development Administration.
- **Hold outreach programs** - The minority business coordinator should hold outreach programs specifically tailored to minority-owned, women-owned, and disabled-owned businesses. These services could take the form of vendor fairs, information packets, and seminars on doing business with the State. Efforts could be coordinated with the local minority business suppliers' council and the minority business development center.